IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 690 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

GUJ STATE ROAD TRANSPORT CORPN - Appellant(s)
Versus
GEMALBHAI NAGJIBHAI RABARI & 1 - Defendant(s)

==========

Appearance :
MR MD PANDYA for Appellant(s) : 1,
MR RR MARSHALL for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 11/08/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and order dated 17.08.84 passed by the Motor Accident Claims Tribunal (Main), Surat in MACP No. 123 of 1984 whereby the Tribunal awarded compensation to the tune of Rs. 50,000/- with running interest at the rate of 6% per annum from the date of application till realisation payable by the original opponent nos. 1 & 2 to the original claimants.

2. The original claimants had filed claim petition

seeking compensation to the tune of Rs. 70,000/- in respect of the vehicular accident which occurred on 22.08.82 while the original claimant was riding his bicycle on the left side of the road from Nehru Bridge to Chowk Bazaar. At that time, a GSRTC bus bearing no. GTE 5429 driven by the original opponent no.1 came from the opposite direction in a rash and negligent manner dashed with the claimant thereby causing serious injuries. The claim petition came to be filed under the said circumstances. The Tribunal after hearing the parties passed the aforesaid award.

3. Learned counsel for the appellant has contended that the Tribunal has erred in not properly appreciating and applying the correct principles governing assessment and awarding compensation. He has further contended that the Tribunal has erred in not properly appreciating and analysing the contents of the medical certificate at Exh. 14 and not drawing proper inferences therefrom.

4. Heard learned counsel for the parties. I have gone through the materials placed on record including the award of the Tribunal. The Tribunal has relied on the panchnama at Exh. 13 and has come to the conclusion that if at all the bus would have been driven on the left side

of the road cautiously, such accident would not have occurred and therefore held the original opponent no.1 guilty of rash and negligent driving.

4.1 The Tribunal has also gone through the medical certificate at Ex. 14 and has also taken into account the fact that the original claimant was kept as indoor patient for three months while awarding the compensation. I am in complete agreement with the reasonings adopted and findings arrived at by the Tribunal and therefore see no reason to cause interference in the matter.

5. In the premises aforesaid, the appeal is dismissed. No order as to costs.

(K.S. JHAVERI, J.)

Divya//